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Perlegen Sciences, Inc.
2021 Stierlin Court
Mountain View, CA 94043
650.625.4562

Date: February 16, 2005

Firm: USPTO – **Attention:** Office of Petitions

From: Deana A. Arnold, Ph.D.

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Perlegen's Docket No.: 200/1004-40

Re:

Applicant: PERLEGEN SCIENCES, INC.
Application No.: 10/635,175
Inventor(s): Patil, *et al.*

The following documents are enclosed:

1. Transmittal Form
2. Request for Reconsideration of Petition under 37 CFR 1.47(a)
3. Copy of Declaration executed by previously non-signing inventor
4. Copy of Assignment executed by previously non-signing inventor
5. Copy of Decision Refusing Status under 37 CFR 1.47(a)

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PTO/SB/21 (08-03)

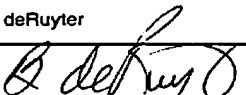
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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	10/635,175	
	Filing Date	6 August 2003	
	First Named Inventor	Patil, Nila	
	Art Unit	1645	
	Examiner Name	Unknown	
Total Number of Pages in This Submission	10	Attorney Docket Number	200/1004-40

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance communication to Technology Center (TC) <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Request for Reconsideration of Petition under 37 CFR 1.47(a) (See Remarks, below)
Remarks Copy of the Declaration executed by the previously non-signing party Copy of the Assignment executed by the previously non-signing party Copy of Decision Refusing Status under 37 CFR 1.47(a)		
SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT		
Firm or Individual name	Deana A. Arnold, Ph.D. (Reg. No. 52,567)	
Signature		
Date	February 16, 2005	

CERTIFICATE OF TRANSMISSION/MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.			
Typed or printed name	Barbara deRuyter		
Signature		Date	February 16, 2005

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

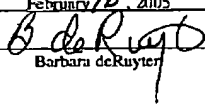
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Appl. No.: 10/635,175
Filed: August 6, 2003
Request for Reconsideration of Petition under 34 CFR 1.47(a)

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to: Commissioner for Patents,
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By 
Barbara deRuyter

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.	:	10/635,175	Confirmation No. 9177
Applicant	:	Patil, <i>et al.</i>	
Filed	:	August 6, 2003	
TC/A.U.	:	1645	
Examiner	:		
Docket No.	:	200/1004-40	
Customer No.	:	31662	

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Request for Reconsideration of Petition Under 37 CFR 1.47(a)


Sir:

In response to the Decision Refusing Status under 37 CFR 1.47(a) mailed February 3, 2005 in the aforementioned case, Applicants enclose herewith a Transmittal Form, a copy of the Declaration executed by the previously non-signing inventor, a copy of the Assignment executed by the previously non-signing inventor, and a copy of the Decision Refusing Status under 37 CFR 1.47(a) mailed February 3, 2005. Applicants believe that all requirements of the Notice to File Missing Parts of Nonprovisional Application mailed on November 8, 2004 have now been met.

Appl. No.: 10/635,175
Filed: August 6, 2003
Request for Reconsideration of Petition under 34 CFR 1.47(a)

Applicants believe that there is no additional charge for this submission. Should they be mistaken in this belief, please charge any additional fees or credit overpayment to Deposit Account number 50-2043.

Respectfully submitted,

by: 
Deana A. Arnold, Ph.D.
Reg. No. 52,567

Perlegen Sciences, Inc.
2021 Stierlin Court
Mountain View, CA 94043
(650) 625-4603



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PERLEGEN SCIENCES, INC.
LEGAL DEPARTMENT
2021 STIERLIN COURT
MOUNTAIN VIEW, CA 94043

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OFFICE OF PETITIONS

In re Application of
Nila Patil, David R. Cox, Charit
Pethiyagoda, Andrew Sparks and
Huang-Tsu Chen
Application No. 10/635,175
Filed: August 6, 2003
For: METHODS FOR ENRICHING
POPULATIONS OF NUCLEIC ACID SAMPLES

:
:
: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)
:

200/1004-40

This is in response to the "Petition Under 37 CFR 1.47(a)," filed
January 10, 2005 (certificate of mailing date: January 7, 2005).

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of
this decision to reply, correcting the below-noted deficiencies.
Any reply should be entitled "Request for Reconsideration of
Petition Under 37 CFR 1.47(a)," and should only address the
deficiencies noted below, except that the reply may include an
oath or declaration executed by the non-signing inventor.
FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.
Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on August 6, 2003
without a fully executed oath or declaration and naming Nila
Patil, David R. Cox, Charit Pethiyagoda, Andrew Sparks and Huang-
Tsu Chen as joint inventors.

Accordingly, on November 8, 2004, a "Notice to File Missing Parts
of Application" was mailed, requiring an executed oath or
declaration, and a surcharge for its late filing.

In response, on January 10, 2005 (certificate of mailing date:
January 7, 2005), the instant petition was filed.

Application No. 10/635,175

Page 2

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee; and

(4) a statement of the last known address of the non-signing inventor.

Applicant lacks items (1), as set forth above.

As to item (1), applicant failed to show or provide proof that the inventor has refused to sign the declaration. Applicant has stated that calls were placed to non-signing inventor Chen's home telephone number. Applicant states a return call and message were made by non-signing inventor Chen but that a return call to non-signing inventor Chen thereafter elicited a response that it was a wrong number. As such, applicant has not shown that an express oral refusal to sign the declaration has been made.

Applicant may wish to send a copy of the application papers to the non-signing inventor at the non-signing inventor's last known address to show that it was presented to the non-signing inventor, but that he did not respond to, or refused, the request that he sign the oath/declaration in order to show that the inventor has refused to join in the application. The proof of the pertinent events should be made by a statement of someone with first hand knowledge of the events.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
 Commissioner for Patents
 Box 1450
 Alexandria, VA 22313

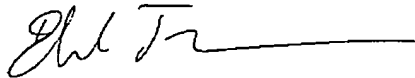
By FAX: (703) 872-9306
 Attn: Office of Petitions

Application No. 10/635,175

Page 3

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision should be directed
to the undersigned at (571)272-3228.



Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office